

111 FERC ¶ 61,409  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeene G. Kelly.

Midwest Independent Transmission System Operator, Inc.	Docket Nos. ER05-6-001, -002, -003, -005, -007, -009, -013, 014, -016, -017, -018, -019, -020, -021, -022, -024, -026
Midwest Independent Transmission System Operator, Inc. PJM Interconnection, LLC, <i>et al.</i>	Docket Nos. EL04-135-003, -004, -005, -007, -009, -011, -015, 016, -018, -019, -020, -021, -022, -023, -024, -026, -028
Midwest Independent Transmission System Operator, Inc. PJM Interconnection, LLC, <i>et al.</i>	Docket Nos. EL02-111-020, -021, -022, -024, -026, -028, -031, -033, -034, -036, -037, -038, -039, -040, -041, -042, -044, -046
Ameren Services Company, <i>et al.</i>	Docket Nos. EL03-212-017, -018, -019, -021, -023, -025, -029, 032, -033, -034, -035, -036, -037, -038, -040, -042

ORDER ACCEPTING COMPLIANCE FILINGS,  
ESTABLISHING HEARING PROCEDURES AND  
CONSOLIDATING PROCEEDINGS

(Issued June 16, 2005)

1. In this order, we accept for filing compliance filings submitted in the above proceedings and, consistent with the Going Forward Principles and Procedures settlement and prior Commission orders,<sup>1</sup> suspend them for a nominal period, to become effective on various dates, subject to refund and surcharge as appropriate, establish hearing procedures, and consolidate this proceeding with the proceeding currently ongoing in Docket No. ER05-6-001, *et al.* This order benefits customers because it provides parties

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<sup>1</sup> See *infra* notes 2, 4.

with a forum to address transition issues associated with the expansion of the two regional transmission organizations (jointly, RTOs), and promotes competitive wholesale power sales markets.

## **I. Background**

2. On November 18, 2004, the Commission adopted a new long-term transmission pricing structure, effective December 1, 2004, across the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and PJM Interconnection, L.L.C. (PJM) regions, that eliminates rate pancaking for transmission service under their open access transmission tariffs (OATTs) for delivery to load in the Midwest ISO-PJM region.<sup>2</sup>

3. Specifically, the November 18 Order addressed two competing proposals for a new transmission rate design to supersede through and out rates, which result in rate pancaking, in the Midwest ISO-PJM region. We found that neither of the two proposals had been shown to be just and reasonable, but rather, they might be unjust and unreasonable, unduly discriminatory or preferential or otherwise unlawful. Therefore, we: (1) conditionally accepted the license plate rate design embodied in one of the proposals, the Regional Zonal Rate Design, for filing, suspended it for a nominal period, to become effective on December 1, 2004, subject to refund; (2) rejected the Offer of Settlement contained in that proposal as unduly discriminatory; and (3) adopted the Seams Elimination Charge/Cost Adjustment/Assignment (SECA) transition methodology we had previously adopted,<sup>3</sup> also to become effective December 1, 2004, the date that regional through and out rates would be eliminated.<sup>4</sup>

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<sup>2</sup> *Midwest Independent Transmission System Operator, Inc.*, 109 FERC ¶ 61,168 (2004) (November 18 Order), *reh'g pending*.

<sup>3</sup> *See Midwest Independent Transmission System Operator, Inc.*, 105 FERC ¶ 61,212 (2003) (November 2003 Order), *reh'g pending*. The SECA methodology is designed to recover lost revenues associated with the replacement of rate pancaking between the regional transmission systems operated by the Midwest ISO and PJM with a license plate rate design. The SECA would recover lost revenues from transmission customers in each license plate pricing zone in proportion to the benefits those customers will realize as a result of the elimination of rate pancaking during a transition period extending through March 31, 2006.

<sup>4</sup> *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,313 (2004).

4. In addition, we directed the Midwest ISO, PJM, and their transmission owners to make compliance filings implementing the SECA methodology adopted in the November 18 Order on or before November 24, 2004. We stated that these filings should: (1) reflect December 1, 2004, as the effective date for elimination of through and out rates for reservations pursuant to requests made on or after November 17, 2003, for service commencing on or after April 1, 2004, for transactions to serve load within the other RTO where transmission service is taken under the OATT of the other RTO; (2) reflect April 1, 2006, as the effective date for elimination of through and out rates for all transactions to serve load within the other RTO where transmission service is taken under the OATT of the other RTO; and (3) incorporate the SECA mechanism as a transitional rate mechanism effective December 1, 2004, through March 31, 2006.<sup>5</sup> Under the SECA methodology, the SECA rates for the period beginning December 1, 2004 through March 31, 2005 (Rate Period 1) are to be based on 2002 test year data, and the SECA rates for the period beginning April 1, 2005 through March 31, 2006 (Rate Period 2) are to be based on 2003 test year data.

5. On November 30, 2004, we issued an order granting clarification of the November 18 Order in response to an emergency motion for clarification filed on November 23, 2004, by American Electric Power Service Corporation.<sup>6</sup> We clarified that AEP, Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc. (ComEd), and Dayton Power and Light Company (Dayton) may recover lost revenues associated with the elimination of intra-RTO rate pancaking, through March 31, 2006, through the SECA transition methodology in Docket No. EL04-135-000.<sup>7</sup>

6. On November 24, 2004, PJM and the PJM Transmission Owners (acting through the PJM and PJM West Transmission Owners Agreement Administrative Committees) filed proposed revisions to the PJM OATT as directed in the November 18 Order. Among other things, PJM and the PJM Transmission Owners proposed revisions that eliminated, as of April 1, 2006, the PJM through and out rate for all reserved capacity with a point of delivery of the Midwest ISO and implemented the SECA. On November 24, 2004, the Midwest ISO and the Midwest ISO Transmission Owners also submitted for filing revisions to the Midwest ISO OATT as directed in the November 18 Order. Among other things, the proposed revisions to the Midwest ISO OATT reflected April 1,

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<sup>5</sup> November 18 Order at P 61 and P 66.

<sup>6</sup> On behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company (jointly, AEP).

<sup>7</sup> *Midwest Independent Transmission System Operator, Inc.*, 109 FERC ¶ 61,243 at P 9 (2004) (November 30 Order), *reh'g pending*.

2006 as the effective date for elimination of the Midwest ISO regional through and out rate to PJM for all transactions serving load within PJM where service is taken under the PJM OATT, and proposed new schedules to implement the SECA. Both PJM and the PJM Transmission Owners and the Midwest ISO and the Midwest ISO Transmission Owners filed revisions to their November 24 filings in December and January.

7. On December 13, 2004 AEP, ComEd, and Dayton submitted a compliance filing in accordance with the Commission's clarification granted in the November 30 Order. Their compliance filing contained revised tariff sheets to the PJM OATT to collect, through the SECA, intra-RTO lost revenues and correct the sub-zone SECAs within the ComEd zone to collect the Midwest ISO's Transmission Owners' lost revenues.

8. On February 10, 2005, the Commission accepted for filing the compliance filings that PJM and the PJM Transmission Owners, the Midwest ISO and the Midwest ISO Transmission Owners, and AEP, ComEd, and Dayton filed in November, December, and January, suspended them for a nominal period, to become effective December 1, 2004, subject to refund and surcharge as appropriate, and established hearing procedures.<sup>8</sup>

## **II. Further Compliance Filings**

9. On February 7, 2005, the Midwest ISO and the Midwest ISO Transmission Owners submitted proposed revisions to Schedule 21 of the Midwest ISO OATT to implement charges to recover lost revenues resulting from the elimination of the regional through and out rates for transactions sinking within the Duquesne Light Company (Duquesne) system, which became part of the PJM footprint on January 1, 2005. The Midwest ISO and the Midwest ISO Transmission Owners request a January 1, 2005 effective date for the proposed revisions to Schedule 21.

10. On March 22, 2005, as amended on March 25, 2005, AEP, ComEd, and Dayton filed, on behalf of the PJM and PJM West Transmission Owners Agreement Administrative Committees, proposed revisions to reflect corrections to errors in Attachments R and X of the PJM OATT, effective December 1, 2004, and revisions to these same attachments reflecting updates, effective January 1, 2005. Specifically, Attachment R reflects proposed updates to the lost revenue amounts and related revenue distribution resulting from Duquesne's integration, as well as a reduction in ComEd's lost revenues to correct for amounts associated with deliveries on behalf of Wisconsin Public Power, Inc. related to the settlement agreement accepted in Docket No. ER01-780-002.<sup>9</sup>

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<sup>8</sup> *Midwest Independent Transmission System Operator, Inc.*, 110 FERC ¶ 61,107 (2005) (February 10 Order).

<sup>9</sup> *Exelon Corporation*, 103 FERC ¶ 61,164 at P 5, 13 (2003).

Attachment X reflects proposed revisions to SECA rates resulting from: (1) updates to reflect Duquesne's integration; (2) the annual update to the billing determinants for network integration transmission service beginning January 1, 2005 to reflect 2004 peak loads within PJM; and (3) reductions to ComEd's lost revenues associated with the settlement in Docket No. ER01-718-002.

11. On March 31, 2005, the Midwest ISO and the Midwest ISO Transmission Owners submitted proposed revisions to Schedules 21 and 22 of the Midwest ISO open access transmission and energy markets tariff (Midwest ISO TEMT). They propose changes to the SECA charges for Rate Period 2, effective beginning April 1, 2005, to reflect calendar-year 2003 test year data. The Midwest ISO and the Midwest ISO Transmission Owners also request that the Commission consolidate the subdockets assigned to this filing with the subdockets associated with the compliance filings set for hearing in the February 10 Order. They state that the tariff revisions that they propose in the instant filing reflect the same methodology used in the earlier filings and, therefore, it is appropriate that they be addressed in the same hearing as the earlier filings.

12. On April 20, 2005, as amended on April 22, 2005, the PJM and PJM West Transmission Owners Agreement Administrative Committees submitted proposed revisions to the SECA rates in the PJM OATT to reflect calendar-year 2003 test year data, effective April 1, 2005.

13. On April 26, 2005, the Midwest ISO and the Midwest ISO Transmission Owners submitted proposed revisions to the Midwest ISO TEMT to reflect revised SECA rates to collect the PJM Transmission Owners' lost revenues due to the reduction in ComEd's lost revenues associated with deliveries on behalf of Wisconsin Public Power, Inc. related to the settlement agreement in Docket No. ER01-780-002, effective December 1, 2004, and to reflect the addition of Duquesne to PJM, effective January 1, 2005.

14. On April 27, 2005, the Midwest ISO and the Midwest ISO Transmission Owners submitted proposed revisions to Schedule 21 of the Midwest ISO TEMT to reflect revised SECA rates to recover lost revenues resulting from the elimination of the regional through and out rates for transactions sinking within the Virginia Electric and Power Company (Dominion) system effective May 1, 2005, the date on which Dominion became part of the PJM footprint.

15. On April 29, 2005, as amended on May 3, 2005, AEP, ComEd, Dayton, and Dominion submitted proposed revisions to the PJM OATT reflecting changes to the PJM Transmission Owners' lost revenues and revisions to Attachment X of the PJM OATT reflecting changes to the SECA charges, to recover lost revenues resulting from the elimination of the regional through and out rates for transactions sinking within the Dominion system effective May 1, 2005.

16. On May 4, 2005, as amended on May 5, 2005, the Midwest ISO and the Midwest ISO Transmission Owners submitted a filing with proposed sub-zonal SECA rates to recover the PJM Transmission Owners' lost revenues filed on April 20, 2005, as amended on April 22, 2005, for Rate Period 2, effective April 1, 2005.

17. On May 23, 2005, the Midwest ISO and the Midwest ISO Transmission Owners filed proposed revisions to the Rate Period 2 sub-zonal SECA charges to recover the PJM Transmission Owners' lost revenues to reflect the addition of Dominion to the PJM footprint, effective May 1, 2005.

18. On May 26, 2005, Duke Energy North America, LLC (Duke Energy) submitted a proposed adjustment to the SECA rates applicable to the Duke Energy Vermillion, LLC and Duke Energy Washington, LLC control areas to reflect hubbing transactions. In addition, Duke Energy states that the Duke Energy Hanging Rock, LLC control area is also entitled to a hubbing adjustment to the SECA applicable to it but the parties supporting application of a SECA charge to Hanging Rock did not provide sufficient information for Duke Energy to propose the appropriate hubbing adjustment.

19. On May 26, 2005, Duquesne submitted amendments to the affidavit and exhibits that it submitted with the April 20 compliance filing.

### **III. Midwest ISO and PJM's Certification of Billing Readiness**

20. On April 26, 2005, PJM and the Midwest ISO submitted a letter certifying that they are ready to bill and settle SECA payments to the PJM Transmission Owners and the Midwest ISO Transmission Owners with the May 2005 invoice for April service (April 26 Letter). They stated that, on March 21, 2005, the Midwest ISO informed PJM that it will have the capability to invoice and settle SECA charges and payments by mid-April 2005 and that the Midwest ISO will be ready to charge the SECA with the May 2005 invoice for April service. They also stated that, in an April 7, 2005 conference call between the Midwest ISO and PJM, PJM informed the Midwest ISO that PJM will also commence billing and settling SECA payments with the May 2005 invoice for April service.

21. The RTOs stated that, during that conference call, PJM staff and Midwest ISO staff agreed upon a procedure and protocol for commencing SECA invoices and settlements. The RTOs noted that the regional through and out rates for certain "existing transactions" (*i.e.*, reservations for requests for service made prior to November 17, 2003, or for service commencing before April 1, 2004) remain in effect through March 31, 2006. The RTOs stated that they will reduce SECA charges to the extent that customers in the Midwest ISO or PJM continue to pay regional through and out rates in connection with existing transactions. Since the SECA billing must be finalized for each month before an existing transactions credit can be calculated, the RTOs stated that there will be

a one-month lag in applying the existing transactions credit to the SECA charges (*i.e.*, the March 2005 existing transactions credit will be applied to the bills for the April 2005 SECA).

22. The RTOs further stated that they have agreed to a phased approach to billing the December 2004 through March 2005 SECA charges in order to lessen the impact of the delay in billing the SECA to their customers. The RTOs proposed that the April invoice will reflect the April 2005 SECA reduced by the March 2005 existing transactions credit while the May invoice will reflect the December 2004, January 2005, and May 2005 SECA less the preceding month's existing transaction credit. The RTOs also proposed billing the February 2005, March 2005, and June 2005 SECA on the June invoice and then, starting in July, the invoices through March 2006 will show the current month's SECA charge reduced by the preceding month's existing transactions credit.

23. On May 5, 2005, the RTOs filed a letter to correct their April 26 Letter. The RTOs state that, due to circumstances surrounding the validation of data values for sub-zones within the Midwest ISO, the Midwest ISO will not be ready to bill or collect from its customers the SECA charge for the month of April 2005. Accordingly, the RTOs state that PJM will not begin invoicing the SECA charges for the month of April 2005 as described in the April 26 Letter. The RTOs state that the Midwest ISO will be able to commence billing in the next regular billing cycle, which is in June for May business. The RTOs state they will add the April 2005 amounts to the June invoice and follow the schedule as planned for the subsequent months as proposed in the April 26 Letter.

#### **IV. Notices of Filings and Pleadings**

24. Notice of Midwest ISO's February 7, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 8,358 (2005), with comments due on or before February 28, 2005. Notice of AEP, ComEd's and Dayton's March 22, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 18,387 (2005), with comments due on or before April 12, 2005. Notice of Midwest ISO's March 31, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 19,751 (2005), with comments due on or before April 21, 2005. Notice of PJM's March 22, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 22,656 (2005), with comments due on or before May 11, 2005. Notice of Midwest ISO's April 27, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 24,779 (2005), with comments due on or before May 18, 2005. Notice of AEP, Com Ed, Dayton and Dominion's April 29, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 25,817 (2005), with comments due on or before May 24, 2005. Notice of Midwest ISO's May 4, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 28,932 (2005), with comments due on or before May 19, 2005. Notice of Midwest ISO's May 23, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 30,431 (2005), with comments due on or before June 6, 2005. Notice of Duke Energy's May 26 filing was published in the *Federal Register*, 70 Fed. Reg. 33,743 (2005), with comments due on or

before June 7, 2005. Notice of Duquesne's May 26, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 33,743 (2005), with comments due on or before June 7, 2005. A notice establishing a common comment date of May 20, 2005 was published in the *Federal Register*, 70 Fed. Reg. 29,296 (2005).

25. The parties listed in the Appendix to this order filed motions to intervene and/or protests to the compliance filings.

26. The protests generally indicate concerns about the lack of supporting information for the proposed SECA rates. They also propose various adjustments to the SECA rates. Many of the protests request that the Commission reject the compliance filings and order new compliance filings with supporting information and adopting protestors' proposed adjustments. In the alternative, many of them request that the Commission set the compliance filings for hearing and also delay implementation of the SECA until the Commission issues an order based on the hearing record.

27. In Duquesne's protest to the February 7, March 22, and March 25 compliance filings reflecting its integration into PJM, Duquesne requests that the Commission reject the proposed January 1, 2005 effective date. Duquesne argues that the applicants have not demonstrated that "extraordinary circumstances" prevented timely filing, as required by the Commission's prior notice policy. Duquesne states that the applicants' argument that the filing is consistent with the November 18 Order has nothing to do with whether or not they have justified their request for a retroactive effective date and that the applicants have provided no reason for their delay in making the filing.

28. Along with their April 15 protest to the March 31 compliance filing, the DTE Companies filed a motion requesting that the Commission summarily rule that the PJM Transmission Owners are ineligible to recover lost revenues through the SECA methodology for the period beginning April 1, 2005 through March 31, 2006. They also request that the Commission summarily reject the "placeholder" for recovery of the PJM Transmission Owners' lost revenues in the proposed tariff provisions filed by the Midwest ISO and the Midwest ISO Transmission Owners on March 31, 2005. They state that the PJM Transmission Owners were required to have at least made a filing prior to April 1, 2005. They request that, at a minimum, the Commission find that the PJM Transmission Owners have forfeited the right to collect lost revenues between April 1, 2005 and the date when the Commission acts on the PJM Transmission Owners' compliance filing.

29. A number of other protestors also request that the Commission deny the PJM Transmission Owners' recovery of lost revenues for the period before the filing of their



Rate Period 2 lost revenues and SECA rates.<sup>10</sup> In its protest to the May 4 and 5 compliance filings to recover the PJM Transmission Owners' lost revenues, Quest Energy requests that it not be subject to SECA rates to collect the PJM Transmission Owners' lost revenues for the period beginning April 1, 2005 through May 4, 2005, the date that the Midwest ISO applicants' subzonal allocation of the PJM Transmission Owners' Rate Period 2 lost revenues was first filed.

30. AEP and Exelon protest the RTOs' proposed SECA billing and collection procedures. AEP and Exelon state that nothing in the RTOs' tariffs permits delaying SECA billing once the certifications have been provided to the Commission, yet the proposed phased approach does just that by delaying the invoices for SECA charges incurred from December 2004 through March 2005. AEP and Exelon state that, while the proposal lessens the burden on the RTOs' customers, the RTOs have given little consideration to the interests of the transmission owners who have lost significant transmission revenues as a result of the elimination of through and out rates and have yet to receive any SECA revenues. AEP and Exelon state that the Commission should reject the RTOs' proposal and direct them to issue invoices for all SECAs for the period from December 1, 2004, through April 30, 2005, in the next billing cycle. In addition, they argue that the SECAs from December 2004 through March 2005 should be collected with interest charges due to the late collection of SECA charges for these months.

31. The DTE Companies request that the Commission clarify that interest charges will not be added to the delayed SECA billings and state that interest charges are unwarranted since any delay in the billing was not the fault of the entities that must pay the charges. The DTE Companies also state that the PJM Transmission Owners should not collect interest charges on top of the SECA when they contributed to the billing delay by filing the Rate Period 2 SECA rates almost three weeks after the proposed effective date.

32. Wisconsin Electric protests the RTOs' proposal for a one-month lag in applying the credit for existing transactions to the SECA payments and the RTOs' silence on whether they will apply interest on that amount. Wisconsin Electric states that the RTOs will know how much a customer paid under existing transactions for December 2004 to March 2005 before the first SECA bill is calculated and that this amount should be credited during the first SECA billing cycle. Wisconsin Electric also states that the RTOs should develop a net-billing process whereby a transmission customer would be credited the full amount of its payments for existing transactions in the same month a SECA is due. Wisconsin Electric also states that the RTOs should clarify that a transmission customer will receive a dollar-for-dollar credit against its corresponding SECA

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<sup>10</sup> See, e.g., Quest Energy May 26 Protest at 7-8; Green Mountain May 26 Protest at 4-5; Duquesne May 26 Protest at 18-19; Strategic Energy, L.L.C. May 26 Protest at 6-7; Consumers Energy May 26 Protest at 7-10; Multiple TDUs May 26 Protest at 5-6.

obligation, with any excess existing transaction payment during a month being carried-over as a continuing credit against the SECA in any subsequent months. Wisconsin Electric argues that transmission customers should not be penalized by the fact that the RTOs are unable to develop the appropriate system allowing for a simultaneous credit of the existing transactions against SECA obligations.

33. On May 17, 2005, Consumers Energy filed comments on the RTOs' certification of billing readiness. Consumers Energy states that, since the customers were not responsible for any delay in billing, customers should not be penalized for the RTOs' decisions. Consumers Energy urges the Commission to reject any attempts to charge interest on the late-billed SECA charges.

34. On May 25, 2005, as amended on May 26, 2005, Quest and Strategic Energy, L.L.C. filed an emergency motion seeking an order that the RTOs may not bill customers for the SECA for Rate Period 2 (April 1, 2005 through March 31, 2006) until the Commission has issued an order on the pending compliance filings. They state that billing prior to the time that the compliance filings are accepted is a violation of precedent.<sup>11</sup>

#### **IV. Discussion**

##### **A. Procedural Matters**

35. Under Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make the entities listed in the Appendix that filed motions to intervene parties to the proceedings in which they moved to intervene. We will also grant the motions to intervene out-of-time of those entities listed in the Appendix given their interest in the proceedings in which they moved to intervene, the early stage of these proceedings, and the absence of any undue prejudice or delay.

36. Under Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2) (2004), answers to protests and answers to answers are not accepted unless otherwise ordered by the decisional authority. We are not persuaded to accept the answers to protests or answers to answers listed in the Appendix, and will, therefore, reject them.

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<sup>11</sup> *Citing Electrical District No. 1, v. FERC*, 774 F.2d 490 (D.C. Cir. 1985).

**B. Substantive Matters**

37. We find that the compliance filings and the responsive pleadings raise issues of material fact that cannot be resolved based on the record before us and are more appropriately addressed in the hearing ordered below.<sup>12</sup>

38. Our preliminary analysis indicates that the compliance filings have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Therefore, consistent with the Going Forward Principles and Procedures settlement and prior orders,<sup>13</sup> we will accept the compliance filings for filing, to take effect December 1, 2004, January 1, 2005, April 1, 2005, or May 1, 2005, as requested, following a nominal suspension and subject to refund and surcharge as appropriate, and set them for hearing. We will allow the requested effective dates for revised SECA rates to reflect integration of Duquesne into PJM on January 1, 2005, and updated test year data for Rate Period 2, effective April 1, 2005. While many parties oppose the requested effective dates, the compliance filings, including the requested effective dates, implement the replacement rate design that we adopted in our prior orders in this proceeding. Those prior orders made clear that the transitional SECA rates would take effect simultaneous with the elimination of rate pancaking, that they would apply to new transmission owners joining either RTO during the transition period, and that the SECA rates would be revised effective April 1, 2005 to reflect the updated 2003 test year. Moreover, the filings were all made before the RTOs were ready to commence billing of the SECA rates. Accordingly, we will accept the requested effective dates.<sup>14</sup>

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<sup>12</sup> We will direct the RTOs and their transmission owners to provide supporting documents containing calculations and data, including North American Electric Reliability Council (NERC) e-tag data used, and detailed narrative descriptions of all adjustments to data and calculations performed, to develop the proposed SECAs with their case-in-chief, in accordance with the procedural schedule to be adopted by the presiding administrative law judge.

<sup>13</sup> *See supra* notes 2, 4.

<sup>14</sup> Since we are issuing this order accepting the Rate Period 2 compliance filings before any payments are due for SECA charges invoiced in June 2005 for service in May 2005 and earlier, Quest and Strategic Energy, L.L.C.'s motion requesting an order finding that the RTOs may not bill Rate Period 2 SECA charges prior to the Commission issuing an order on the pending compliance filings is moot.

39. Given common issues of law and fact, we will consolidate this proceeding with the proceeding currently ongoing in Docket No. ER05-6-001, *et al.*, for purposes of hearing and decision.

40. We will, however, accept the Midwest ISO and PJM's proposal to phase billing of the SECA charges, subject to certain conditions. We agree with the Midwest ISO and PJM that phased billing will mitigate the impact on customers' monthly bills. We also agree that the RTOs should include interest for the period that SECA billings were delayed while the RTOs developed billing procedures. Such interest should be computed in accordance with section 35.19a of the Commission's regulations, 18 C.F.R. § 35.19a (2004).

41. We agree with Wisconsin Electric that the RTOs should endeavor to achieve capability to issue net bills to transmission customers that simultaneously bill the SECA and credit revenues associated with existing transactions for the same billing month. We understand that, because the through and out rates for existing transactions are billed to a particular customer by one RTO, while the SECA is billed to the same customer by the other RTO, differences in billing cycles between the two RTOs may prevent the synchronization of final bills for SECAs and through and out rates for existing transactions. In that case, the RTOs should consider providing an estimated credit for existing transactions for the same billing month that the SECA is being invoiced, subject to true-up in the subsequent month. This will minimize impacts of the mismatch on customers and transmission owners alike. In the meantime, prior to achieving that capability, the RTOs should include interest, calculated in accordance with section 35.19a of the Commission's regulations, for the one-month lag in credits for existing transactions. In addition, we agree with Wisconsin Electric that, to the extent that a customer's existing transaction payment is in excess of its SECA obligation during a month, such existing transaction payment should be carried over as a credit against the customers' SECA obligation in the next month. The RTOs are directed to implement the existing transactions credits accordingly.

The Commission orders:

(A) The revised SECA compliance filings submitted by PJM and the PJM Transmission Owners, the Midwest ISO and the Midwest ISO Transmission Owners, and AEP, ComEd, and Dayton on and after February 7, 2005 in the above captioned proceedings are hereby accepted for filing and suspended for a nominal period, to become effective December 1, 2004, January 1, 2005, April 1, 2005, or May 1, 2005, as requested, subject to refund, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred on the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the Federal Power Act, and pursuant to the

Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the compliance filings, as discussed in the body of this order.

(C) Docket Nos. ER05-6-014, -016, -017 through -022, -024, and -026, Docket Nos. EL04-135-016, -018 through -024, -026, and -028, Docket Nos. EL02-111-034, -036 through -042, -044, and -046, and Docket Nos. EL03-212- 032 through -038, -040 and -042 are hereby consolidated with Docket Nos. ER05-6 001, -002, -003, -005, -007, -009, and -013, Docket Nos. EL04-135-003, -004, -005, -007, -009, -011, and -015, Docket Nos. EL02-111-020, -021, -022, -024, -026, -028, -031, and -033, and Docket Nos. EL03-212-017, -018, -019, -021, -023, -025, and -029.

(D) The presiding administrative law judge designated to preside in the proceeding ongoing in Docket No. ER05-6-001, *et al.* shall determine the procedures best suited to accommodate consolidation.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.

**Appendix**

<b>Party</b>	<b>Date Filed</b>	<b>Description of Pleading</b>
FirstEnergy Service Company	2/28/2005	Motions to Intervene and Consolidate
Duquesne Light Company (Duquesne)	2/28/2005	Protest, Motion to Consolidate, and Motion to Intervene
FirstEnergy Service Company	3/15/2005	Motion for Leave to Answer and Answer
Midwest ISO Transmission Owners	3/15/2005	Answer to Protest
Wisconsin Public Service Corporation and Upper Peninsula Power Company	4/12/2005	Comments
Wisconsin Electric Power Company (Wisconsin Electric) and Edison Sault Electric Company (Edison Sault)	4/12/2005	Comments
Hoosier Energy Rural Electric Cooperative, Inc.	4/12/2005	Protest
Duquesne	4/12/2005	Protest
Green Mountain Energy Company (Green Mountain)	4/12/2005	Protest
Ormet Primary Aluminum Corporation	4/12/2005	Protest
The PJM Regional Group	4/12/2005	Protest
FirstEnergy Service Company	4/12/2005	Motion to Intervene, Motion to Reject, in Part, or in the Alternative, Protest
Strategic Energy, L.L.C.	4/12/2005	Motion to Intervene and Protest
The Detroit Edison Company and DTE Energy Trading, Inc. (The DTE Companies)	4/15/2005	Motion for Partial Summary Rejection, Protest, and Request for Summary Finding
Dominion Retail, Inc.	4/21/2005	Motion for Late Intervention and Protest
CMS ERM Michigan, L.L.C.	4/26/2005	Motion to Intervene Out of Time and Protest
Duquesne	4/27/2005	Answer to Motions to Reject
American Electric Power Service Corporation, on behalf of Appalachian Power Service Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company,	4/28/2005	Answer to The DTEs Companies' Motion for Partial Summary Rejection

Kingsport Power Company, Ohio Power Company, and Wheeling Power Company (together, AEP); Exelon Corporation, on behalf of Commonwealth Edison Company and Commonwealth Edison Company of Indiana (together, ComEd) and PECO Energy Company (together with ComEd, Exelon); and The Dayton Power and Light Company (Dayton)		
AEP and ComEd	4/28/2005	Protest
AEP and ComEd	5/2/2005	Request for Leave to File Answer to Protests and Answer to Protests
FirstEnergy Service Company	5/10/2005	Answer to the Answer of Duquesne to Motions to Reject
Dominion Retail, Inc.	5/11/2005	Motion to Intervene and Protest
Buckeye Power, Inc.	5/11/2005	Protest
Strategic Energy, L.L.C.	5/13/2005	Motion to Intervene and Protest
The DTE Companies	5/13/2005	Motion for Leave to File Answer and Answer to Answer of AEP, Exelon, and Dayton
The DTE Companies	5/13/2005	Comments
Wisconsin Electric	5/16/2005	Protest
Duquesne	5/17/2005	Answer to Answer of AEP and ComEd
Consumers Energy Company (Consumers Energy)	5/17/2005	Comments
Quest Energy, L.L.C. and WPS Energy Services, Inc. (together, Quest Energy); and Strategic Energy, L.L.C.	5/25/2005	Emergency Motion
Illinois Municipal Electric Agency	5/25/2005	Protest and Comments
Quest Energy	5/26/2005	Errata to Emergency Motion
Wisconsin Electric and Edison Sault	5/26/2005	Protest
Quest Energy	5/26/2005	Protest
Green Mountain	5/26/2005	Protest
Duquesne	5/26/2005	Protest and Motion to Consolidate
Duquesne	5/26/2005	Protest and Motion to Consolidate
Duquesne	5/26/2005	Answer to Motions to Reject
Midwest ISO Transmission Owners	5/26/2005	Protest

CMS Energy Resource Management Company	5/26/2005	Protest
AEP and Exelon	5/26/2005	Protest
Strategic Energy, L.L.C.	5/26/2005	Protest
Hoosier Energy Rural Electric Cooperative, Inc.	5/26/2005	Protest
Strategic Energy, L.L.C.	5/26/2005	Supplemental Protest
Consumers Energy Company	5/26/2005	Protest and Comments
Boroughs of Ellwood City, Girard, Grove City, and Zelienople, PA	5/26/2005	Motion to Intervene, Comments and Protest
FirstEnergy Service Company	5/26/2005	Motion to Intervene, Motion to Reject and Protest
Reliant Energy, Inc.	5/26/2005	Protest, Comments and Motion to Intervene
Multiple TDUs	5/26/2005	Protest and Intervention
The Cities of Batavia and St. Charles, Illinois	5/26/2005	Motion to Intervene and Protest
Certain Classic PJM Transmission Owners	5/26/2005	Joint Protest
Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc.	5/26/2005	Comments
Wisconsin Public Service Corporation and Upper Peninsula Power Company	5/26/2005	Protest
Ormet Primary Aluminum Corporation	5/26/2005	Protest and Motion to Consolidate
Buckeye Power, Inc.	5/26/2005	Protest
The DTE Companies	5/26/2005	Expedited Motion to Consolidate and Protest
American Municipal Power-Ohio, Inc.	5/27/2005	Motion for Leave to File Protest One Day Out of Time
MidAmerican Energy Company	5/31/2005	Comment Out of Time
FirstEnergy Service Company	5/31/2005	Answer to Duquesne's Request for Waiver of, or Shortened
CMS Energy Resource Management Company	6/6/2005	Protest
American Municipal Power-Ohio, Inc.	6/6/2005	Protest and Summary Disposition
Madison Gas and Electric Company	6/6/2005	Protest
Boroughs of Ellwood City, Girard,	6/6/2005	Motion to Intervene,



Grove City, and Zelienople, PA		Comments and Protest
The DTE Companies	6/6/2005	Answer to Quest Emergency Motion
Consumers Energy Company	6/7/2005	Protest and Comments
Strategic Energy, L.L.C.	6/7/2005	Protest
AEP and Exelon	6/7/2005	Comments
American Municipal Power-Ohio, Inc.; Consumers Energy; Green Mountain, The DTE Companies; Multiple TDUs	6/7/2005	Emergency Answering Statement
Wisconsin Electric and Edison Sault	6/7/2005	Comments
Wabash Valley Power Association, Inc.	6/7/2005	Protest
FirstEnergy Service Company	6/7/2005	Motion to Reject and Protest